

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of Application of

Hypercube, LLC,)

and)

KMC Data LLC)

For Grant of Authority Pursuant to Section 214 of)

the Communications Act of 1934 and Sections)

63.04, 16.18 and 63.24 of the Commission's Rules)

to Complete a Transfer of Control of Authorized)

International and Domestic Interstate Carrier)

WC Docket No. 06-20

COMMENTS OF AT&T INC.¹

Pursuant to the Commission's *Public Notice* released January 31, 2006 (DA 06-239),² AT&T Inc. ("AT&T") respectfully submits these comments on the above-captioned *Joint Application* filed by Hypercube, LLC ("Hypercube") and KMC Data LLC ("KMC Data") requesting authority to transfer control of KMC Data from KMC Telecom Holdings, Inc. ("KMC Holdings") to Hypercube.³ For the reasons stated below, AT&T does not oppose the *Joint Application*, but requests that the Commission condition

¹ On November 18, 2005, SBC Communications Inc. closed on its merger with AT&T Corp. The resulting company is now known as AT&T Inc. In these comments, "AT&T" refers to the merged company and its wholly-owned subsidiaries, including its ILEC operating subsidiaries, unless otherwise noted.

² Public Notice, "*Domestic Section 214 Application Filed for the Transfer of Control of KMC Data LLC from KMC Telecom Holdings, Inc. to Hypercube, LLC*," DA 06-239 (rel. Jan. 31, 2006) ("*Public Notice*"). The details of the proposed transfer are summarized in that document.

³ *Application of Hypercube, LLC, and KMC Data LLC For Grant of Authority Pursuant to Section 214 of the Communications Act of 1934 and Sections 63.04, 16.18 and 63.24 of the Commission's Rules to Complete a Transfer of Control of Authorized International and Domestic Interstate Carrier*, filed Jan 12, 2006 ("*Joint Application*").

the grant of that relief on an express undertaking on the record by KMC Holdings that it and its affiliates will comply fully with industry standards and practices governing local number portability (“LNP”) and number administration in connection with the KMC Holdings family of companies’ service discontinuances and other transactions.

KMC Holdings has been engaged in a series of transactions to transfer control of certain of its affiliates to other entities, and to discontinue portions of its affiliates operations. In addition to the proposed transfer of control of KMC Data to Hypercube, KMC Holdings has previously been granted Commission authorization to transfer the exchange operations of KMC Telecom II LLC (“KMC Telecom II”) and KMC Telecom III LLC (“KMC III”) to Telcove, Inc. and CenturyTel Acquisition LLC.⁴ as well as to discontinue certain domestic telecommunications services of its affiliates KMC Telecom V, Inc. (“KMC V”) and KMC Telecom of Virginia, Inc. (“KMC Telecom VA”) in 39 states.⁵ Notably, in connection with the last of these transactions, the KMC applicants represented that they would take steps “to make sure that [their] discontinuance of service does not unduly disrupt the operations” of customers still subscribed to those offerings.⁶

⁴ See Public Notice, *Domestic Section Application Filed for Acquisition of KMC Operating Companies by Telcove, Inc.*, WC Docket No. 05-90, DA 05-669 (rel. March 14, 2005); Public Notice *Domestic Section Application filed for Acquisition of KMC Telecom LLC, KMC Telecom II LLC, KMC Telecom III LLC, KMC Telecom of Virginia to CenturyTel Acquisition LLC*, WC Docket No. 05-158, DA 05-1303 (rel. May 5, 2005); Public Notice, *Notice of Streamlined Domestic Applications Granted*, WC Docket Nos. 05-158, 05-180, DA 05-1605 (rel. June 6, 2005); Public Notice, *Authorizations Granted Applications for Acquisition of Assets of KMC Operating Companies by Telcove, Inc.*, WC Docket No. 05-90/ITC-ASG-20050302-00078, DA 05-1813 (rel. June 27, 2005).

⁵ See Section 63.71 *Application of KMC Telecom V, Inc. and KMC Telecom of Virginia, Inc. for Authority to Discontinue Domestic Telecommunications*, WC Docket No. 05-309/Comp. Pol. File No. 729, Order, DA 05-334 (rel. Dec. 28, 2005).

⁶ See *Reply of KMC Telecom V, Inc and KMC Telecom of Virginia* filed November 28, 2005 in WC Docket No. 05-309/Comp. Pol. File No. 729, at p. 2. Thereafter, these KMC affiliates requested that AT&T disconnect numerous circuits and services that used such offerings as AT&T special access service,

(footnote continued on following page)

Regrettably, KMC Holdings did not comply with its representation to the Commission. Instead, that service discontinuance is being conducted in a manner which threatens serious disruption not only to customers of the KMC Holdings affiliates but also to other end users and to other carriers such as AT&T. (Indeed, the KMC affiliates have requested AT&T to disconnect certain circuits even though from AT&T's analysis it appears that those facilities are still carrying traffic.) Such actual and potential harm is directly attributable to failure by KMC Holdings' companies to adhere to their obligations under industry standards and practices for LNP and numbering administration as they withdraw from service. And, equally regrettably, KMC Holdings' companies have failed even to acknowledge their responsibility to adhere to these numbering procedures after AT&T has pointed them out and requested confirmation that KMC will comply with those standards.

Most important, the Industry Numbering Committee ("INC") has promulgated a detailed set of procedures governing the responsibilities of the North American Numbering Plan Administrator ("NANPA") and a telecommunications carrier such as KMC is exiting from portions of its business and must therefore return or abandon its NXX codes that contain ported numbers.⁷ Under those *COCAG Appendix* procedures,

(footnote continued from preceding page)

unbundled network elements ("UNEs"), and total service resale ("TSR"). See letter dated January 13, 2006 from Michael Vitenson, Associate General Counsel, KMC Telecom, to Jose M. Gutierrez, President – Industry Markets, SBC, attached as Exhibit 1. (Because the attachment to that letter contains proprietary information, AT&T is filing that material with these Comments with a request for confidential treatment.) Although this bulk order letter process did not comport with industry standard practice, AT&T undertook to accommodate that request based on its then-current understanding that KMC Holdings' affiliates would follow other industry standards for exiting business.

⁷ See "Procedures for Code/LENG Assignee Holder Exit," *INC Central Office Code (NXX) Assignment Guidelines*, ATIS-030051.apc, Appendix C ("COCAG Appendix") (attached hereto as Exhibit 2).

KMC must submit appropriate documentation to NeuStar, Inc. (“NeuStar”), which serves as the NANPA and Pooling Administrator (“PA”), to allow NeuStar effectively to reassign the codes to a new entity.⁸ Failure to follow this process prior to the KMC Holdings companies’ removal from service of trunks between ILEC tandem switches and the KMC Holdings’ own end office switch will result in failure of the LNP function when a database dip is performed.⁹ Moreover, if a code is returned to the PA by KMC Holdings but is not fully migrated to a new carrier, then *all* of the working ported numbers become void.

These problems are scarcely theoretical or speculative. AT&T has previously experienced such disruptions when KMC Holdings affiliates exited certain markets in 2005. At that time, those companies failed to return their NPA/NXX codes as required by industry standards, and also failed to issue disconnect orders on many of its trunks before removing its switch from service. As a result, AT&T experienced numerous – and, had those KMC companies acted in accordance with industry standards, entirely avoidable – trouble reports from AT&T’s own end users and from other carriers affected by KMC’s actions.

⁸ This process takes in excess of 66 days because NeuStar must first identify a new owner for the codes in question before the necessary paperwork is submitted to confirm the effective date of the code transfer. Nor is this the only lead time required to implement a code reassignment; for example, AT&T has a 45 day interval when accepting a reallocated code because it must follow several required timing, administrative and functional tasks before an NPA-NXX can be re-routed to its network. In the interim, calls destined for the code will not be completed to AT&T.

⁹ Additionally, under these circumstances callers and other carriers will experience general failures associated with routing NPA/NXXs in the absence of those trunks. Providers routing calls to telephone numbers within such NPA/NXX codes direct such traffic to a “vacant announcement” indicating that the call cannot be completed. Thus, if KMC removes trunking from service without first properly relinquishing codes to NANPA and the PA for reassignment, any KMC customers that have been ported to AT&T may miss incoming calls and file trouble reports.

For example, KMC Holdings failed to follow the required procedures with respect to the 870/394 NPA/NXX code, which was to be assigned via NeuStar to AT&T's ILEC operations. That NPA/NXX is utilized in the service area from Memphis, Tennessee, to West Memphis, Arkansas, and serves Qwest end users. Under industry practice, the initial phase of this NPA/NXX reassignment first required that numbers assigned to KMC end users be ported to AT&T. After this was accomplished, reassignment and ownership of the entire NPA/NXX should have been transferred via NeuStar from KMC Holdings' affiliates to AT&T. However, KMC prematurely removed its voice trunking and SS7 links from service prior to the NPA/NXX reassignment to AT&T. This action resulted in service outages for *all* end user numbers that were dependent upon KMC-provided switching for Local Number Portability (LNP) functionality. Further, this action effectively prevented call completion not only between KMC and AT&T, but between KMC and *all* carriers that subtend the AT&T network.

The cavalier manner in which KMC is conducting its exit from business also poses additional serious potential disruption, absent the Commission imposing conditions on its pending Section 214 application. As described above, if a carrier such as one of KMC Holdings' affiliates disconnects its local switch prior to the time that number porting has been completed, customers whose numbers have not yet been ported will lose service. Identifying the affected customers, and determining the appropriate routing for them after the fact, presents substantial difficulties (and may even be impossible to resolve) for all other carriers that process traffic destined for end users abandoned by KMC. All such carriers would experience a large volume of alarm conditions and outage reports. Such reports create additional, unnecessary maintenance work and costs for

AT&T and other carriers that must respond to those complaints, only to discover that the reported troubles have been generated by the actions of a different carrier exiting the business in an irresponsible manner.

Additional serious potential disruption may occur when a carrier disconnects its switch without also properly “turning down” the associated Signaling System 7 (“SS7”) links, and without issuing disconnect orders for such SS7 switch routing to avoid unnecessary queries to all SS7 databases. Failure by an exiting carrier to perform these procedures can lead to substantial signaling link congestion by producing significant numbers of SS7 failure messages for uncompleted calls to the exiting carrier’s network, and thereby negatively impact the regional and national SS7 networks of multiple carriers. As previous experience shows, these types of network conditions have been sufficiently serious to require the filing of outage reports with the Commission.¹⁰

AT&T has actively -- but, to date, unsuccessfully -- sought voluntary assurances from KMC that it will follow appropriate industry LNP and numbering administration practices as it proceeds with the transactions related to its business reorganization.¹¹ Initially that request was met with silence from KMC. Subsequently, in discussions with AT&T KMC representatives asserted that compliance should not be required because KMC had not learned of these industry practices in sufficient time to proceed with its planned schedule for exiting portions of its business. Clearly, however, it is not incumbent upon AT&T to educate KMC regarding its responsibilities to satisfy well-

¹⁰ For example, a similar problem was caused by a CLEC exiting business in Texas and Oklahoma in December, 2003, and resulted in serious disruption.

¹¹ See email dated January 5, 2006 from Kenneth Martin, AT&T, to John Gleason, KMC (attached as Exhibit 3).

understood industry norms. Nor should KMC be permitted to ignore those standards simply because it has framed its business exit plan without taking account of those established procedures. Just as importantly, KMC Holdings should not be permitted to impose avoidable network congestion, service disruptions to customers, and costly problems for other carriers simply because of its own haste to transfer control of some of its affiliates.

Accordingly, AT&T requests that the Commission condition any grant of the *Joint Application* upon KMC Holdings' express undertaking on the record in this proceeding, on behalf of itself and all of its affiliates, to comply with all industry standards, practice and guidelines on LNP and numbering administration in its business transactions related to reorganization of its business. This assurance should apply *both* to future transactions by the KMC Holdings companies and to those previously authorized by the Commission but still being implemented by those entities, because both types of transactions pose serious threats of disruptions for KMC Holdings' own customers, other end users, and other carriers. Such a commitment on the KMC companies' part will serve the fundamental public interest criterion underlying Section 214 by avoiding serious problems that would otherwise result if KMC does not comply with accepted industry procedures.¹²

¹² See *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, 17 FCC Rcd 5517, 5520 (2002) (¶ 4) ("the Commission has employed a public interest standard under section 214(a) that involves an examination of the potential public interest harms and benefits of a proposed transaction").

Respectfully submitted,

/s/ Peter H. Jacoby
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Its Attorneys

February 14, 2006

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February 2006, copies of the foregoing
“Comments of AT&T Inc.” were served electronically on the parties listed below:

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EXHIBIT 1
(REDACTED)

January 11, 2006

Jose M. Gutierrez
President – Industry Markets
SBC
175 E. Houston
PO Box 2933
San Antonio, TX 78299-2933

Re: **BLANKET LETTER OF AUTHORIZATION/ACCESS SERVICE
REQUEST/ LOCAL SERVICE REQUEST TO DISCONNECT ALL
REMAINING SPECIAL ACCESS SERVICES, UNBUNDLED
NETWORK ELEMENTS AND RESALE SERVICES**

Dear Mr. Gutierrez:

On October 27, 2005, KMC Telecom V, Inc. and KMC Telecom of Virginia, Inc. (combined "KMC") notified the Federal Communications Commission ("FCC") that it lacked sufficient funding to pay its underlying network service providers, and requested authority to discontinue providing all telecommunications services nationwide. By order entered in WC Docket No. 05-309 on December 28, 2005, the FCC authorized KMC to discontinue providing telecommunications services as of January 2, 2006. Pursuant to that authority, KMC is in the process of ceasing its operations, and has notified the few remaining customers on its system that no service will be provided after January 15, 2006. Accordingly, by means of this correspondence, KMC is hereby authorizing and directing you to DISCONNECT THE CIRCUITS AND SERVICES listed on Exhibit A that you provide to KMC as of January 16, 2006. This includes all Special Access Circuits, Switched Access Services, Unbundled Network Elements, Total Service Resale or any other facilities or services (collectively, the "Services") that your company provides to KMC listed on Exhibit A hereto.

This Blanket Letter of Authorization to disconnect all Services listed on Exhibit A is supplemental to earlier correspondence that we sent directing you to disconnect circuits previously. Recall, for example, that KMC sent you notice dated August 26, 2005 directing you

Jose M. Gutierrez
January 11, 2006
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to disconnect all circuits identified therein. This Blanket Letter of Authorization is intended to make clear both that the circuits identified in our prior correspondence should have been disconnected previously, and that all Services listed on Exhibit A should be disconnected as of January 16, 2006. KMC will accept no financial responsibility for circuits and Services not disconnected in accordance with this letter and our prior correspondence on the topic.

We are aware that your company would prefer that KMC provide an electronic circuit by circuit disconnection notice via your ASR/LSR interfaces. However, KMC simply does not have staff remaining that is capable of undertaking that task. Due to our financial condition, we have been forced to terminate all employees that would previously have entered such electronic orders. Thus, this correspondence unfortunately must suffice.

KMC is obviously deeply disappointed by its necessity of discontinuing services and ceasing operations, but our financial condition leaves us no alternative. We ask for your cooperation in disconnecting the Services listed on Exhibit A on a timely basis to avoid needless disputes over future unauthorized charges. If you have any questions regarding this Blanket Letter of Authorization, or our prior disconnection correspondence, please contact Mikhael Vitenson at (908) 470-3619 or by e-mail at mikhael.vitenson@kmctelecom.com. Thank you.

Sincerely,



Mikhael Vitenson
ASSOCIATE GENERAL COUNSEL

Copy to:
Ken Martin, Account Manager
Peggy Beata, Director-Regional Account Management
Daniel Faustmann, Manager Credit & Collections
SBC
722 N. Broadway
Milwaukee, WI 53202

EXHIBIT 2

Procedures for Code/LERG Assignee Holder Exit

1.0 Purpose

This appendix describes the responsibilities of NANPA and service providers in situations when a service provider (SP) is returning or abandoning NXX codes that contain ported telephone numbers and a new code holder/LERG assignee must be selected with minimal impact on ported customers. The specific circumstances addressed cover:

- Voluntary Return of Non-Pooled NXX Codes Containing Ported Numbers
- Voluntary Return of Pooled NXX Codes Containing Assigned Blocks/Ported Numbers
- Abandoned Non-Pooled NXX Codes Containing Ported Numbers
- Abandoned Pooled NXX Codes Containing Assigned Blocks/Ported Numbers

2.0 Assumptions

- 2.1 Reasonable efforts should be taken to re-establish a code holder/LERG assignee in order to maintain default routing. Should the code holder/LERG assignee vacate their responsibilities, calls to the donor switch will not be processed.
- 2.2 The SP returning an NXX code will coordinate with NANPA to ensure that the code is not removed from the LERG Routing Guide as an active code until the Part 3 with the effective date of the disconnect is received. This is to prevent an adverse effect on ported-out customers.
- 2.3 A code holder/LERG assignee must be LNP capable, may put the code on any switch in the rate center, and should already be providing service in the rate center. This should eliminate any potential problems with facilities readiness.
- 2.4 NANPA shall work closely with regulatory authorities to obtain timely information about SPs abandoning service. Such circumstances are under the direction of a regulatory authority or court.
- 2.5 When an NXX code is re-allocated to another SP, the NXX code is considered to be re-allocated rather than re-assigned; therefore, the SP does not have to meet the MTE and utilization criteria for this NXX code.
- 2.6 A SP has the option to refuse a NXX code re-allocation. Refusal will not adversely impact any pending NXX code/block assignment request because it is unrelated to the re-allocation.
- 2.7 These guidelines also apply in jeopardy/rationing situations.

- 2.8 It is the responsibility of each SP to provide an accurate E911 record for each of its customers to the E911 Service Provider. It is essential that the outgoing SP unlock its E911 records in the regional E911 database, and the new SP must transition the affected customers' records to its own company ID in the E911 database.
- 2.9 It is the responsibility of the new code holder/LERG assignee to notify Telcordia™ to update the AOCN responsibility in BIRADS for the reallocated NXX code (s).
- 2.10 The SP returning the NXX code has the responsibility to assure that affected parties, especially any end-users, are notified consistent with state or regulatory requirements.
- 2.11 When an NXX code is re-allocated and there are no active or pending ported numbers in the NPAC, the NPAC, via receipt of the LNP NXX LERG Assignee Transfer Form, should ensure that any existing NXX records of the code are deleted from its database on the effective date of the reallocation.
- 2.12 The new code holder/LERG assignee and the old code holder/LERG assignee (when operational) should work together to discuss whether it is more appropriate to transfer the code using the Coordinated Industry Effort Process, the LNP NANC 323 SPID Migration Process, or the LNP CO Code Reallocation Process. (For descriptions of these processes and recommendations on when to use them, see Section 3 below). This decision should be based on the quantity and type of customers involved, and the agreement of the involved SPs that would have to coordinate the change.
- 2.13 If there are no active or pending ports on the returned NXX code pending disconnect, the NPAC will use the Part 3 disconnect information received via email from the NANPA to remove the capability to port numbers from the returned NXX code 15 business days prior to the effective date of the disconnect. This removal will cause any new port attempts against the returned NXX code to fail at the user interface, thus avoiding additional impediments to the code return process.
- 2.14 It is the responsibility of the new code holder/LERG assignee to notify NECA to update the NECA Tariff FCC No. 4 database with the new OCN for the reallocated NXX code(s). NECA currently requires a copy of the new Part 3 form.

3.0 Notification Procedures for Returned NXX Codes

NANPA will request that the NPAC produce an ad hoc report, generated during off-peak hours, that identifies the SPs and associated quantities of ported TNs in a returned NXX code. This information will assist NANPA in re-allocating the NXX code. The NPAC will

charge NANPA for the ad hoc report per the existing contract. The reports are to be provided to the NANPA pursuant to a non-disclosure agreement. The NANPA may use these reports to provide each potential code holder/LENG assignee with the total number of ported TNs it has, number of SPs with ported TNs, and the total number of ported TNs overall.

NANPA is required to post the effective dates of pending NXX code disconnects on the NANPA website in order for SPs to be aware of approved NXX code disconnects. In addition, NANPA should periodically (every six months) send an electronic reminder to code holders/LENG assignees of their responsibility, per the Central Office Code Assignment Guidelines, to submit a Part 1 form to NANPA to return a non-pooled NXX code and to the PA to return a pooled NXX. Code holders/LENG assignees should notify the appropriate numbering administrator if they are no longer able to perform default routing functions (e.g., the SP is no longer providing service in the area served by that NXX code). NANPA must inform the outgoing code holder/LENG assignee of their responsibility to update the appropriate routing databases upon receipt of the Part 3.

The new code holder/LENG assignee and the old code holder/LENG assignee (when operational) should work together to discuss whether it is more appropriate to transfer the code using the Coordinated Industry Effort Process, the LNP NANC 323 SPID Migration Process, or the LNP CO Code Reallocation Process. It is recommended that the Coordinated Industry Effort Process be considered when there are 5 or fewer SPs involved and less than 150 subscription versions (SVs). If that process cannot be used, then the NANC 323 SPID Migration Process is the preferred method over the LNP CO Code Reallocation Process. The following describes the three available processes:

- The Coordinated Industry Effort Process is a coordinated manual delete/recreate update of the affected NXX code records. The new code holder should identify the number of ported and/or pooled TNs within the NXX code(s) to be transferred and the number of involved SPs to determine if this option is feasible. Based on the number of involved SPs, the new code holder should coordinate a conference call among all affected SPs to determine if the delete/recreate process is acceptable among all affected SPs. Affected SPs should note that the delete/recreate process is service-affecting for those ported and/or pooled customers. The type of customer should also be considered when determining if this option is feasible. If the Coordinated Industry Effort process is deemed acceptable, the affected SPs shall coordinate the deletion and recreation of all ported and/or pooled TN records in the NXX code(s). It is recommended that this process should be considered when there are 5 or fewer SPs involved and less than 150 ported TNs and no pooled blocks (see LNPA Best Practices posted on the NPAC Public Site: www.npac.com).
- The LNP NANC 323 SPID Migration Process is a coordinated update of the SPID attribute in the NPA-NXX, NPA-NXX-X, LRN as well as the respective SV or number pool block record. This process supports NPAC Users that require

assistance migrating LNP data associated with one SPID to one or more other SPIDs. If after considering the Coordinated Industry Effort Process, the SP that is receiving the NXX code ultimately determines that a NANC 323 SPID migration is to be scheduled after considering the responses from the SPs impacted by the migration, the receiving SP will initiate the request by issuing a SPID Migration Request Form ("Form") to the NPAC, specifying the migrating codes and affected LNP data. This Form and the associated M&Ps are posted in the NPAC Secure Site, under the 'NPAC M&Ps' button. To access the Secure Site, go to the NPAC Public Site (www.npac.com) and click on the 'Secure Site' button to login to the secure area.

- The LNP CO Code Reallocation Process involves porting the code in thousands-blocks to the new LERG assignee. In this way, the NPAC's block-ownership tables override the NPAC's NXX-ownership tables, allowing continued porting of any number in the NXX without the need for SPID Migration. The LNP CO Code Reallocation Process allows numbers to snap back to the new LERG assignee, the same as if the SPID had been changed in the NPAC without ported numbers having been taken out of service. There are specific actions related to LNP processes to be taken by SPs, NANPA, and NPAC during the NXX code reallocation process. An overall description, including a required form, can be found at: (<http://www.nationalpooling.com>). This process should only be used if either the Coordinated Industry Effort Process or the LNP NANC 323 SPID Migration Process cannot be used.

In addition, it is the responsibility of the SP returning the code to remove any LRN record it has associated with the returned NXX code and all ported in TNs associated with that LRN, including intra-SP ports. In addition, if the NXX is being disconnected, the NXX should be disconnected in the NPAC as well.

If there are no active or pending ports on the NXX code, a Part 3 disconnect should be issued by NANPA to the SP. The Part 3 disconnect information shall be entered into BIRRDs by the SP's AOCN. The NXX code should be included in the Part 3 disconnect report posted on the NANPA web site.

If there are no active or pending ports on the returned NXX code pending disconnect, the NPAC will use the Part 3 disconnect information received via email from the NANPA to remove the capability to port numbers from the returned NXX code 15 business days prior to the effective date of the disconnect. This removal will cause any new port attempts against the returned NXX code to fail at the user interface, thus avoiding additional impediments to the code return process.

If there are active or pending ports on the returned NXX code pending disconnect, or if porting of TNs occurs on a returned NXX code after NANPA has issued a Part 3 disconnect but prior to the 15 business days before the effective date of the disconnect, NPAC should notify NANPA that a port has occurred. NPAC also will disregard the Part 3 disconnect information and will not suspend porting at the 15 business-day timeframe.

NANPA will request approval from the appropriate regulatory authority for NPAC to delete the Subscription Version(s) (SVs) from its databases. Written approval from the regulator for the deletion of the SVs from the NPAC databases may be sent to NPAC directly from the regulator, or via NANPA.

4.0 Voluntary Return of NXX Codes Containing Ported Numbers

In the case where non-pooled NXX codes are voluntarily returned and contain ported numbers or pending ports, NANPA should request that the incumbent code holder maintain the default routing function. NANPA will re-allocate the non-pooled NXX code as soon as possible to avoid disconnects of non-pooled NXX or disruption of service.

If any expedite is requested by the outgoing or incoming code holder, the applicant shall so indicate on the Part 1. Expedite procedures are found in Section 6 of the Central Office Code (NXX) Assignment Guidelines (COCAG).

Within five business days of being informed by a SP that it is discontinuing service in a given rate center, the NANPA shall request an ad hoc report from the NPAC that will identify active and pending ports on the returned non-pooled NXX code. This information will assist NANPA in re-allocating the non-pooled NXX code.

If there are active or pending ports on the non-pooled NXX code, NANPA shall:

- a) Contact all SPs shown on the NPAC report with ported TNs from the identified non-pooled NXX code at the same time, informing them of the code holder's intention to disconnect. NANPA will provide each potential code holder with the total number of ported TNs it has, the number of SPs with ported TNs, and the total number of ported TNs overall. NANPA will use the latest contact information that NANPA Code Administration has on file for the impacted SP(s). Further, SPs also may designate a special contact for this purpose by providing contact information to NANPA. SPs with ported TNs will have 10 business days to respond with a complete and correct Part 1. NANPA will provide a specific date and hour as the deadline for responses.
- b) Include in its contact document, language that states that the current SP is seeking to expedite the return of the non-pooled NXX code. This shall be done only if the SP returning the non-pooled NXX code has indicated an expedite process on its Part 1.
- c) Suspend the Part 1 pending identification of a new code holder and so inform the applicant via a Part 3. NANPA will request the incumbent code holder to maintain default routing.

- d) The first SP to respond with a completed and correct Part 1, indicating all requested changes in Section 1.4, will become the new code holder.¹ Only the receipt of a Part 1 by NANPA will be accepted as an official request for the non-pooled NXX code. NANPA will process the Part 1 as a non-pooled NXX code reassignment and provide a Part 3 to the new code holder.² NANPA will provide a Part 3 Denial to the SP returning the non-pooled NXX code, indicating that a new code holder has been found and provide the effective date of the reassignment to the new OCN.³ NANPA also will notify all the SPs on the original distribution that a new code holder has been selected.

NANPA will include in the Part 3 to the new code holder the contact name, telephone number, and e-mail address of the SP returning the code. NANPA also will include in the Part 3 to the SP returning the code the contact information of the new code holder. In either case, an SP may decline to have its information included, and must indicate as such on the Part 1.

- e) If an SP agrees to assume responsibility for the non-pooled NXX code and to expedite⁴ its activation, the SP should indicate the latter by providing accompanying written documentation with the Part 1 agreeing to a shortened activation interval date. The documentation should also indicate that the activation interval shall not be less than 30 calendar days. The NANPA will deny the Part 1 application if there is no accompanying written documentation.
- f) If after ten days from the issuance of the e-mail there are no volunteers, NANPA will notify the appropriate regulatory authority and the SPs with ported TNs that no SP has submitted a valid Part 1 to become the code holder and therefore, the non-pooled NXX code will be disconnected. NANPA will issue a Part 3 Approval to the incumbent SP approving the non-pooled NXX code return and the disconnect effective date. NANPA will update and post to the NANPA web page a report titled "Part 3 Disconnects." This report shall contain all disconnects processed by NANPA.

NANPA should provide the NPAC with written notification that the SP has terminated service in order for NPAC to remove all records in its database related to the reclaimed non-pooled NXX code after the effective disconnect date.

¹ Months to Exhaust (MTE) and utilization requirements are waived.

² A Part 4 must be submitted by the new code holder/LEAG assignee in the case in which a code has been returned and reallocated, yet the old code holder/LEAG assignee had not yet submitted the Part 4. The Part 4 must be submitted within six months after the original Part 3 effective date.

³ It is the responsibility of the new code holder to contact the original code holder if the code transfer does not occur on the effective date originally indicated on the Part 3 denial so that the original code holder can continue to maintain default routing until the new effective date.

⁴ See Section 6 of the Central Office Code (NXX) Assignment Guidelines (COCAG).

Should the above situation occur, an SP originally contacted by NANPA because it had active or pending ports on the returned non-pooled NXX code per the NPAC report may decide it wants to become the new code holder after NANPA has processed the Part 3 Disconnect. NANPA then will reassign the non-pooled NXX code to the SP, provided the SP submits a completed and correct Part 1 no less than fifteen (15) business days prior to the effective date of the disconnect.⁵

- g) If an SP requests to become the code holder but has no ported TNs and cannot meet MTE and utilization, NANPA will direct the SP to make its request to the appropriate regulatory authority. Upon receiving both written confirmation (email or fax) from the regulatory authority and a valid Part 1 from the SP no less than fifteen (15) business days prior to the effective date of the disconnect,⁶ NANPA will make the SP the new code holder. This process only applies to non-pooled NXX codes with active or pending ports.
- h) If the SP returning the non-pooled NXX code becomes aware of ported TNs on the NXX and NANPA has issued a Part 3 Disconnect, the SP should:
 - a. identify SP(s) receiving ported TNs from the returned NXX;
 - b. notify NANPA of ported TNs;
 - c. the SP receiving ported TNs from the returned NXX should contact NANPA regarding taking over the returned NXX.

NANPA will, after having received and processed a valid Part 1, designate the SP applicant as the new code holder. Any such porting must occur 15 business days prior to the effective date of the disconnect (see Section 2.13).

An SP should not be obligated to maintain default routing more than 66 calendar days after filing a valid Part 1 indicating its intent to return the non-pooled NXX code.

4.1 Voluntary Return of Pooled NXX Codes Containing Assigned Blocks/Ported Numbers

In the case where pooled NXX codes are voluntarily returned and have blocks assigned to any block holders other than the LERG assignee, the PA shall:

- a) Contact all block holders informing them of the LERG assignee's intention to disconnect. The block holders will have 10 business days to respond with a complete and correct Part 1. The PA will provide a specific date as the deadline for

⁵ All new code holders must follow the standard code activation process in the COCAG. In order to stop the disconnect and re-assign a code, a minimum of five (5) business days is needed to notify Telcordia to reverse the disconnect and send an emergency notification to service providers. Adding this time interval to the ten (10) business day requirement for NANPA to process code applications results in the requirement for service providers to provide a Part 1 no less than fifteen (15) business days prior to the effective date of the disconnect.

⁶ See previous footnote.

responses. The PA will use the latest contact information that Pooling Administration has on file for the impacted block holder(s). Further, SPs also may designate a special contact for this purpose by providing contact information to the PA.

- b) The first block holder to respond with a completed and correct Part 1 will become the new LERG assignee.⁷ Only the receipt of a Part 1 by the PA will be accepted as an official request for the pooled NXX code. The PA will forward the Part 1, along with the original Part 1 returning the pooled NXX code to NANPA as a pooled NXX code reassignment and provide a Part 3 to the original LERG assignee and the new LERG assignee. The PA will also notify all block holders on the original distribution that a new LERG assignee has been selected.
- c) NANPA will process the Part 1 and provide a Part 3 to the new LERG assignee and the PA.⁸ NANPA will provide a Part 3 Denial to the SP returning the pooled NXX code, indicating that a new LERG assignee has been found and provide the effective date of the reassignment to the new LERG assignee.⁹
- d) NANPA will include in the Part 3 to the new LERG assignee the contact name, telephone number, and e-mail address of the SP returning the pooled NXX code. NANPA also will include in the Part 3 to the SP returning the pooled NXX code the contact information of the new LERG assignee. In either case, an SP may decline to have its information included, and must indicate as such on the Part 1.
- e) If an SP agrees to assume responsibility for the pooled NXX code and to expedite¹⁰ its activation, the SP should indicate the latter by providing accompanying written documentation with the Part 1 agreeing to a shortened activation interval date. The documentation should also indicate that the activation interval shall not be less than 30 calendar days. The NANPA will deny the Part 1 application if there is no accompanying written documentation.
- f) The PA will modify the existing BCR/BCD record(s) of the original LERG assignee in BIRRDs with the new LERG assignee's information upon receipt of the Part 3 from NANPA.
- g) The PA will modify all of the available blocks within the transferring pooled NXX to be effective 1 calendar day after the Part 3 effective date of the transfer. This step will ensure that the new LERG assignee has sufficient time to make the necessary NPAC updates. If the new LERG assignee determines that the necessary NPAC updates cannot be made in conjunction with the Part 3 effective date of the transfer,

⁷ Months to Exhaust (MTE) and utilization requirements are waived.

⁸ NANPA and PA will work with the new LERG assignee to determine if a Part 4 is necessary.

⁹ It is the responsibility of the new LERG assignee to contact the original LERG assignee if the pooled NXX code transfer does not occur on the effective date originally indicated on the Part 3 denial so that the original LERG assignee can continue to maintain default routing until the new effective date.

¹⁰ See Section 6 of the Central Office Code (NXX) Assignment Guidelines (COCAG).

then the new LERG assignee shall notify the PA of the revised date for when the available blocks will be viable for assignment.

The new LERG assignee shall:

- notify the PA via email which blocks assigned to the original LERG assignee are to be reallocated to the new LERG assignee because the contamination level is over 10%. This notification will take place within 90 calendar days of receiving the Part 3 confirmation from NANPA.
- notify the PA via Appendix 2 which blocks assigned to the original LERG assignee are to be donated by the new LERG assignee because the contamination level is 10% or less. This notification will take place within 90 calendar days of receiving the Part 3 confirmation from NANPA.

Blocks that were previously donated or returned by the original LERG assignee will remain in the pool.

- 4.1.1 If no SPs respond within ten business days or all refuse to become the new LERG assignee or there are no blocks assigned to any block holders other than the LERG assignee, the PA will proceed with forwarding the pooled NXX return to NANPA to check for ported numbers or pending ports.

Within five business days of being informed by the PA via a Part 1 that the SP is discontinuing service in a given rate center, the NANPA shall request an ad hoc report from the NPAC that will identify active and pending ports on the returned pooled NXX code. This information will assist the PA in re-allocating the pooled NXX code.

If there **are no active or pending ports** on the pooled NXX code, NANPA shall proceed with the return.

If there **are active or pending ports** on the pooled NXX code, NANPA shall:

- Suspend the Part 1 pending identification of a new LERG assignee by the PA and so inform the applicant via a Part 3. NANPA will request the original LERG assignee to maintain default routing.
 - Provide the PA with an ad hoc report from the NPAC that will identify active and pending ports on the returned pooled NXX code.
- a) The PA shall contact all SPs shown on the NPAC report with ported TNs from the identified pooled NXX code at the same time, informing them of the LERG assignee's intention to disconnect. The SPs with ported TNs will have 10 business days to respond with a complete and correct Part 1. The PA will provide a specific date as the deadline for responses. The PA will use the latest contact information that Pooling Administration has on file for the impacted SPs ported TNs. Further,

SPs also may designate a special contact for this purpose by providing contact information to the PA.

- b) The first SP to respond to the PA with a completed and correct Part 1 will become the new LERG assignee.¹¹ Only the receipt of a Part 1 by PA will be accepted as an official request for the pooled NXX code. The PA will forward the Part 1, along with the original Part 1 returning the pooled NXX code to NANPA as a pooled NXX code reassignment, and provide a Part 3 to the original LERG assignee and the new LERG assignee.¹² The PA will also notify all SPs on the original distribution that a new LERG assignee has been selected.
- c) NANPA will provide a Part 3 Denial to the PA and SP returning the pooled NXX code, indicating that a new LERG assignee has been found and the effective date of the reassignment to the new LERG assignee.¹³ NANPA will include in the Part 3 to the new LERG assignee the contact name, telephone number, and e-mail address of the SP returning the code. NANPA also will include in the Part 3 to the SP returning the code the contact information of the new LERG assignee. In either case, an SP may decline to have its information included, and must indicate as such on the Part 1.
- d) If an SP agrees to assume responsibility for the pooled NXX code and to expedite¹⁴ its activation, the SP should indicate the latter by providing accompanying written documentation with the Part 1 agreeing to a shortened activation interval date. The documentation should also indicate that the activation interval shall not be less than 30 calendar days. The NANPA will deny the Part 1 application if there is no accompanying written documentation.
- e) If after ten business days from the issuance of the e-mail there are no volunteers, NANPA will notify the PA, the appropriate regulatory authority and the SPs with ported TNs that no SP has submitted a valid Part 1 to become the LERG assignee and therefore, the pooled NXX code will be disconnected. NANPA will issue a Part 3 Approval to the PA and original LERG assignee approving the pooled NXX code return and the disconnect effective date. NANPA will update and post to the NANPA web page a report titled "Part 3 Disconnects." This report shall contain all disconnects processed by NANPA.
- f) NANPA should provide the NPAC with written notification that the SP has terminated service in order for NPAC to remove all records in its database related to the reclaimed pooled NXX code after the effective disconnect date.

¹¹ Months to Exhaust (MTE) and utilization requirements are waived.

¹² NANPA will work with the new LERG assignee to determine if a Part 4 is necessary.

¹³ It is the responsibility of the new code holder to contact the original LERG assignee if the pooled code transfer does not occur on the effective date originally indicated on the Part 3 denial so that the original LERG assignee can continue to maintain default routing until the new effective date.

¹⁴ See Section 6 of the Central Office Code (NXX) Assignment Guidelines (COCAG).

- g) Should the above situation occur, an SP originally contacted by NANPA because it had active or pending ports on the returned pooled NXX code per the NPAC report may decide it wants to become the new LERG assignee after NANPA has processed the Part 3 Disconnect. NANPA then will reassign the pooled NXX code to the SP, provided the SP submits a completed and correct Part 1 to the PA no less than fifteen (15) business days prior to the effective date of the disconnect.¹⁵
- h) If an SP requests to become the LERG assignee but has no ported TNs and cannot meet MTE and utilization, NANPA will direct the SP to make its request to the appropriate regulatory authority. Upon receiving both written confirmation (email or fax) from the regulatory authority and a valid Part 1 from the SP via the PA no less than fifteen (15) business days prior to the effective date of the disconnect,¹⁶ NANPA will make the SP the new LERG assignee. This process only applies to pooled NXX codes with active or pending ports.
- i) If the porting of TNs occurs on a returned pooled NXX code after NANPA has issued a Part 3 Disconnect, NANPA will, after having received and processed a valid Part 1 from the PA designating the SP applicant as the new LERG assignee. Any such porting must occur 15 business days prior to the effective date of the disconnect (see Section 2.13).

The PA will modify the existing BCD/BCR record in BIRRDs from the original LERG assignee's information with the new LERG assignee's information upon receipt of the Part 3 from NANPA.

The PA will modify all of the available blocks within the transferring pooled NXX to be effective 1 calendar day after the Part 3 effective date of the transfer. This step will ensure that the new LERG assignee has sufficient time to make the necessary NPAC updates. If the new LERG assignee determines that the necessary NPAC updates cannot be made in conjunction with the Part 3 effective date of the transfer, then the new LERG assignee shall notify the PA of the revised date for when the available blocks will be viable for assignment.

The new LERG assignee shall:

- notify the PA via email which blocks assigned to the original LERG assignee are to be reallocated to the new LERG assignee because the contamination level is over 10%. This notification will take place within 90 calendar days of receiving the Part 3 confirmation from NANPA.

¹⁵ All new code holders must follow the standard code activation process in the COCAG. In order to stop the disconnect and re-assign a code, a minimum of five (5) business days is needed to notify Telcordia to reverse the disconnect and send an emergency notification to service providers. Adding this time interval to the ten (10) business day requirement for NANPA to process code applications results in the requirement for service providers to provide a Part 1 no less than fifteen (15) business days prior to the effective date of the disconnect.

¹⁶ See previous footnote.

- notify the PA via Appendix 2 which blocks assigned to the original LERG assignee are to be donated by the new LERG assignee because the contamination level is 10% or less. This notification will take place within 90 calendar days of receiving the Part 3 confirmation from NANPA.

Blocks that were previously donated or returned by the original LERG assignee will remain in the pool.

An SP should not be obligated to maintain default routing more than 66 calendar days after filing a valid Part 1 indicating its intent to return the pooled NXX code.

5.0 Abandoned Non-Pooled NXX Codes Containing Ported Numbers

In the case where a non-pooled NXX code is abandoned, NANPA may not have prior knowledge of the situation or know if there are active or pending ported TNs on the non-pooled NXX code. Further, NANPA may be unable to contact the incumbent code holder concerning the status of the NXX code or to request that it maintain default routing function if there are ported TNs. Situations may also occur where an SP fails to submit a Part 1 to NANPA and proceeds with disconnecting the non-pooled NXX code. Often, customer complaints or information provided by SPs are the way that NANPA learns of these abandoned non-pooled NXX code situations.

NANPA shall work closely with regulatory authorities to obtain timely information about SPs abandoning service. Such circumstances are under the direction of a regulatory authority or court.

NANPA will request a report from the NPAC on the abandoned non-pooled NXX code to determine if there are any active or pending ported TNs.

NANPA will then contact the appropriate regulatory authority and seek guidance concerning the return or reassignment of the abandoned non-pooled NXX code.¹⁷ NANPA will include information about whether there are active or pending ports on the abandoned non-pooled NXX code.

- a. In those instances where there is porting on the abandoned non-pooled NXX code, NANPA will, unless otherwise directed by the regulatory authority, contact those SPs with ported TNs to determine if they want to become the new code holder, NANPA will follow the same process as outlined in Section 4.0 [specifically (b) through (f)].
- b. If a new code holder cannot be established for non-pooled NXX codes with active or pending ports, NANPA will process the disconnect request of the non-pooled

¹⁷ There are differing requirements among state commissions/regulatory authorities relating to bankruptcies and the treatment of NPA-NXXs as carrier assets as well as carrier of last resort obligations that may affect the disposition of an abandoned code. Regulatory authority involvement is needed to ensure these requirements are addressed.

NXX code after receiving written confirmation (email or fax) from the involved regulatory authority. NANPA then will provide the NPAC written notice from the regulatory authority that the SP has terminated service in order for NPAC to remove all records in its database related to the LRN and non-pooled NXX code, including intra-SP ported TNs.

NANPA will direct any customer complaints concerning the disruption of service to the involved SP, or appropriate regulatory authority. In the case of an abandoned non-pooled NXX code, NANPA will not act independently of regulatory authority direction with regard to the reassignment of a non-pooled NXX code to a SP with ported TNs.

5.1 Abandoned Pooled NXX Codes Containing Assigned Blocks/Ported Numbers

In the case where a pooled NXX code is abandoned, NANPA or the PA may not have prior knowledge of the situation, or know if there are active or pending ported TNs on the pooled NXX code. Further, NANPA or the PA may be unable to contact the LERG assignee concerning the status of the pooled NXX code or to request that it maintain default routing function if there are blocks assigned, active or ported TNs. Situations may also occur where an SP fails to submit a Part 1 to the PA and proceeds with disconnecting the pooled NXX code. Often, customer complaints or information provided by SPs are the way that NANPA or the PA learns of these abandoned pooled NXX code situations.

NANPA and the PA shall work closely with regulatory authorities to obtain timely information about SPs abandoning service. Such circumstances are under the direction of a regulatory authority or court.

If blocks are assigned to any block holders other than the LERG assignee, the PA will, unless otherwise directed by the regulatory authority, contact all block holders to determine if they want to become the new LERG assignee. The PA will follow the same process as outlined in Section 4.1 [specifically (a) through (e)].

If the PA is unable to locate a new LERG assignee, the PA will inform NANPA. NANPA will request a report from the NPAC on the abandoned pooled NXX code to determine if there are any active or pending ported TNs.

NANPA and the PA will then contact the appropriate regulatory authority and seek guidance concerning the return or reassignment of the abandoned pooled NXX code.¹⁸ NANPA will include information about whether there are active or pending ports on the abandoned pooled NXX code.

¹⁸ There are differing requirements among state commissions/regulatory authorities relating to bankruptcies and the treatment of NPA-NXXs as carrier assets as well as carrier of last resort obligations that may affect the disposition of an abandoned code. Regulatory authority involvement is needed to ensure these requirements are addressed.

- c. In those instances where there is porting on the abandoned pooled NXX code, NANPA and the PA will, unless otherwise directed by the regulatory authority, contact those SPs with ported TNs to determine if they want to become the new LERG assignee. NANPA will follow the same process as outlined in Section 4.1.1 [specifically (a) through (e)].
- d. If a new LERG assignee cannot be established for pooled NXX codes with blocks assigned or with active or pending ports, NANPA will process the disconnect request of the pooled NXX code after receiving written confirmation (email or fax) from the involved regulatory authority. NANPA then will provide the NPAC written notice from the regulatory authority that the SP has terminated service in order for NPAC to remove all records in its database related to the LRN and pooled NXX code, including intra-SP ported TNs.

NANPA and/or the PA will direct any customer complaints concerning the disruption of service to the involved SP or appropriate regulatory authority. In the case of an abandoned pooled NXX code, NANPA and/or the PA will not act independently of regulatory authority direction with regard to the reassignment of a pooled NXX code to a SP with ported TNs.

EXHIBIT 3

From: MARTIN, KENNETH E (AIT)
Sent: Thursday, January 05, 2006 5:22 PM
To: 'john.gleason@kmctelecom.com'
Cc: 'constance.loosemoore@kmctelecom.com'; KERBER, MARK A (Legal); TAN, JAMIE M (SBCSI); JACOBY, PETER G (AT&T); BEATA, MARGARET (AIT); NOVACK, MARC (SBC-OPS)
Subject: Letter re: NPA/NXX issue

John,

I am looking for a quick response to the attached letter also accompanied by a copy of the Central Office Code Assignment Guideline (COCAG).

If you have any questions, please call me on (216) 822 5379.

January 5, 2006

Mr. John Gleason
Manager Code Administration and Number Portability
KMC Telecom V

John,

I am writing to follow-up on the code administration issues we discussed prior to the holidays. As you know, AT&T is concerned that KMC will fail to fulfill code administration and other responsibilities as it exits the markets with respect to Telephone number based services.

I have attached a copy of the Central Office Code Assignment Guidelines (COCAG). Please confirm by return e-mail that KMC will comply with these guidelines. In particular, but without limitation, please confirm that KMC will continue to maintain default routing until its numbers have been re-assigned in the Local Exchange Routing Guide (LERG) database and subsequent changes made to the LNP database.

In addition, please confirm KMC will notify all of the appropriate Public Safety Answering Points (PSAPs) that KMC will no longer be a local service provider in their jurisdictions. Please also confirm that, once disconnect LERG dates have passed, KMC will issue disconnect orders on all remaining facilities and trunks.

AT&T looks forward to receiving an affirmative response from KMC no later than 5:00 p.m. eastern standard time on Friday, January 6, 2006.

Sincerely,

Kenneth E. Martin

Kenneth E. Martin
AT&T Local Account Manager